



Community Development Department

BISMARCK BOARD OF ADJUSTMENT MEETING AGENDA APRIL 7, 2011

Tom Baker Meeting Room

4:00 p.m.

City-County Office Building

MINUTES

1. **Minutes.** Consider approval of the minutes of the March 3, 2011 meeting.

REQUESTS

2. **3851 Prairie Pines Loop** (Tony Wilson) Request for a variance to exceed the maximum allowable area for an accessory building for the purpose of constructing a detached 24-foot by 40-foot building at the above-mentioned property.

ADJOURNMENT

3. **Adjourn.** The next regular meeting date is scheduled for May 5, 2011.

Bismarck-Burleigh County Community Development Department

221 North 5th Street • PO Box 5503 • Bismarck, ND 58506-5503 • TDD: 711 • www.bismarck.org

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
MARCH 3, 2011**

The Bismarck Board of Adjustment met on March 3, 2011 at 4:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Board members present were Blair Ihmels, Dean Conrad, Ken Heier, and Jeff Ubl.

Members absent were Jennifer Clark and Michael Marback.

Staff members present were Ray Ziegler (Building Official), Gregg Greenquist (Planner), and Kim Riepl (Office Assistant).

Others present were Scott Lunneborg, Mandan; Gary Johnsrud, Glenwood, MN; and Dave Patience and Jake Axtman, both of Swenson, Hagen & Co., Bismarck.

MINUTES

Mr. Ihmels asked for consideration of the November 4, 2010 minutes.

MOTION: A motion was made by Mr. Ubl and seconded by Mr. Conrad to approve the minutes of the November 4, 2010, meeting as presented. With all members voting in favor, the minutes were approved.

VARIANCE – NORTHERN METAL RECYCLING FACILITY –225 S. 26TH STREET

Mr. Ihmels stated the applicant was requesting a variance to reduce the front yard setback from 15-feet to 7-feet for the purpose of constructing a fence.

Dave Patience provided a brief background on the Northern Metal Recycling Facility project, explaining the reason for this variance request and how it relates to their application for a special use permit as a condition of approval.

Jake Axtman displayed a copy of the site plan which portrayed both the existing features of the site and those being proposed. He indicated the existing fence which is approximately 15-feet back from the lot line with the north portion being approximately 5-feet below grade (based on the street elevation). He stated one of the conditions of approval set forth by the Bismarck Planning & Zoning Commission was that the grade at the new fence location be raised at least as high as the curb. He explained the problem in meeting that condition lies with the placement of the fence 15-feet back as required. Raising the grade 15-feet back would completely change the drainage pattern that currently exists on the property. Also, on the north end of the property, positioning the fence back 15-feet would require encroaching into the usable space of the property 22-feet at a 3:1 slope. He summarized by saying that in locating the fence 7-feet off the property line, they are saving 4,000 cubic yards of fill material, keeping the same amount of usable space, and maintaining the existing drainage corridor. He noted that all the necessary screening and landscaping will still be provided if the fence is located 7-feet off the property line.

Mr. Ihmels questioned the current drainage on both ends of the property. Mr. Axtman explained how the proposed storm sewer will greatly improve the drainage of the area.

Mr. Conrad commented on the visibility factor with a new fence in place and Mr. Axtman stated a special committee had been formed to approve the color and material of the fence in order to improve the site appearance.

Mr. Ubl asked how far back the fence will be from the curb and Mr. Axtman replied 23-feet. Mr. Heier asked the current distance and Mr. Axtman said approximately 30-feet.

Mr. Ihmels questioned the existence of a sidewalk and Mr. Axtman stated a new sidewalk will be installed and there will be two rows of trees, with burr oak between the sidewalk and curb and also a row of coniferous trees to provide additional screening.

The following findings were provided:

1. The need for a variance is based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the MA zoning classification.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is the minimum variance that will accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance; however, it is doubtful that it would be injurious to the neighborhood or otherwise detrimental to the public welfare.

MOTION: A motion was made by Mr. Ubl to approve the request for the variance to reduce the front yard setback from 15-feet to 7-feet. The motion was seconded by Mr. Conrad, and with all members voting in favor, the motion was passed.

ADJOURNMENT

There being no further business, Mr. Ihmels declared the meeting of the Bismarck Board of Adjustment adjourned to meet again on April 7, 2011.

Respectfully Submitted,

Kim Riepl
Recording Secretary

APPROVED:

Michael Marback, Chair

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

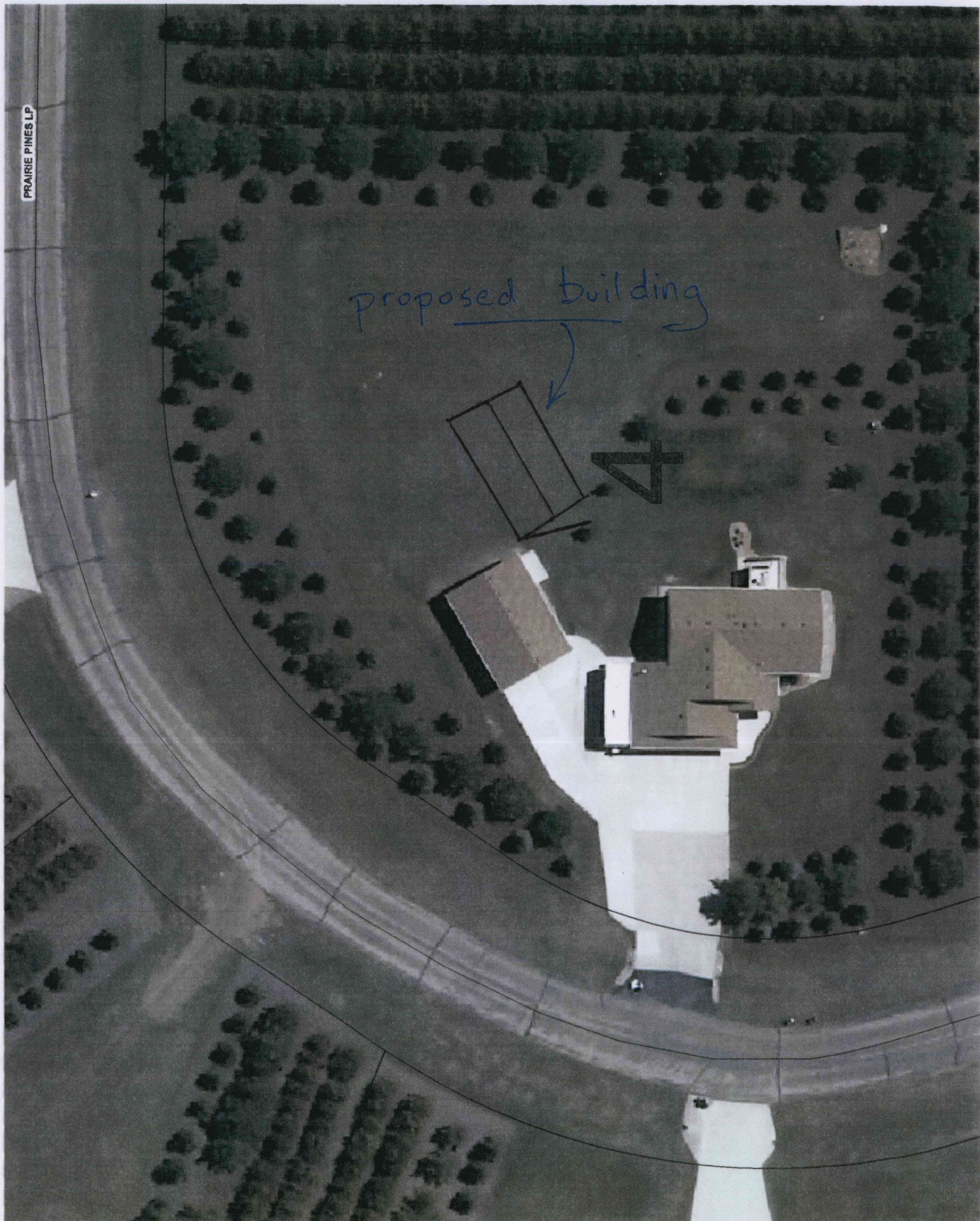
BACKGROUND:	
Title: 3851 Prairie Pines Loop –Variance to construct a larger-than-allowed accessory building (Lot 4, Block 1, Grandview Pines, SE¼ of SE¼ 14-139-80)	
Status: Board of Adjustment	Date: April 7, 2011
Owner(s): Tony Wilson	
Reason for Request: The applicant wishes to construct a second detached garage/shop that would be larger than allowed by the ordinance. The proposed 24' x 40' building is 960 square feet. An existing accessory building is 936 square feet. The maximum accessory building area for this 1.96-acre lot is 1800 square feet. The total area of the existing building and the proposed building together would be 1896 square feet, or 96 square feet over the maximum allowed.	
Location: Northeast of Bismarck on the north side of 43 rd Avenue NE, on the west side of Centennial Road. From the intersection of 43 rd Ave and Centennial, go 0.2 mile west, then north on Prairie Pines Loop	
Applicable Provision(s) of Zoning Ordinance: Section 14-04-01(10) "All allowable accessory buildings to a residence shall be limited to . . . a maximum of eighteen hundred (1,800) square feet for lots between 85,000 square feet and four (4) acres; . . ." <i>(This lot is 85,186 square feet or 1.96-acres)</i>	
FINDINGS:	
<ol style="list-style-type: none">1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the RR zoning classification.2. The hardship is not caused by the provisions of the Zoning Ordinance.3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.4. The requested variance is the minimum variance that will accomplish the relief sought by the applicant.5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance; however, it is doubtful that it would be injurious to the neighborhood or otherwise detrimental to the public welfare.	
RECOMMENDATION:	
Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board. If granted, the variance must be put to use within 24 months or it shall lapse and the landowner must reapply.	

PRAIRIE PINES LP

North
←

proposed building

4



Bismarck

Denied

CITY OF BISMARCK
BUILDING DIVISION
221 N 5TH ST
BISMARCK, ND 58506-5503
PH (701) 355-1465

COPY

CITY OF BISMARCK / ETA & BURLEIGH COUNTY

RECEIVED DATE: 3/14/11 3/15/11

CONTACT INFORMATION:

1. Name:

Tony Wilson

2. Phone Number:

3. Property Address:

3851 Prairie Pines LP

4. Location of Property:

☐ City of Bismarck

☒ ETA

☐ Burleigh County

5. Reason for variance

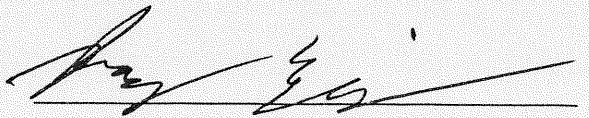
Would like to construct new lot, however
at the proposed size (24x40)^{96'} w/ existing 24x36⁸⁶⁴ total
area will exceed 1800 SF, that by approx 24 SF → 96 SF over
Allowed 1800 SF, Existing 936 SF
Remaining 864 SF 24x36=936

6. In the space below, please draw your lot, all existing buildings located on your lot and the proposed structure. Include dimensions of buildings, distance between buildings and your property lines.

7. Your application has been reviewed. It has been:

☒ Approved

Reviewed By:



☒ Denied

Date:

3-15-11

8. Reason for denial:

excludes acc- coverage

Please make the corrections and resubmit the application

Please note that an application for a permit is deemed to be abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued. Therefore, supply us with the required plans at your earliest convenience.

**CITY OF BISMARCK/ETA & BURLEIGH COUNTY
APPLICATION FOR APPROVAL OF A VARIANCE
WRITTEN STATEMENT**

1. Property Address or Legal Description: Lot 4, Block one Grandview Pines
2. Location of Property: ☐ City of Bismarck ☐ ETA ☒ Burleigh County
3. Type of Variance Requested: would like a variance of 96 sf
4. Applicable Zoning Ordinance Chapter/Section: _____

5. Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

My lot size is 85,186 sf it has plenty of room for a garage, with my trees all the way around the lot it is very private, I would not think the garage would hurt the look of the neighborhood.

6. Describe how these limitations would deprive you of reasonable use of the land or building involved and result in unnecessary hardship.

My lot has plenty of room to put a 24'x40' garage. It would help keep our neighborhood neat and tidy.

7. Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

My camper is over 36' so would be best to have 40' in length so the 40' is why I am asking for that length. I would like the 24' wide because with 14' side walls if I would go to narrow it would not look too appealing and our neighborhood is very nice and neat.

TONY WILSON

3851 Prairie Pines Loop
Bismarck, ND 58503

March 20, 2011

City of Bismarck
The Board of Adjustment
211 N. 5th St.
Bismarck, ND 58504

Dear Board Members,

I am writing this letter in regards to denial for a building permit for a 24X40 sq. ft. building to store a 36 ft. camper and I am asking for the Board to reconsider the 96 sq. ft. variance that is needed to accommodate the size needed.

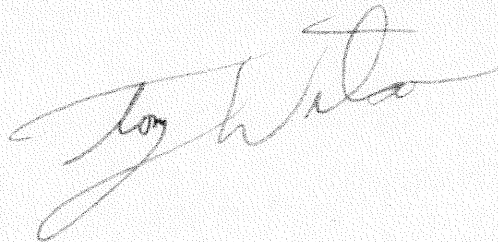
The week of February 14th, 2011 I had called Building Permits and was told that my permit was tentatively approved even though a 24 sq. ft. variance was needed at the time; however, I was told, "it shouldn't be a problem." Therefore, I had ordered the building materials, including trusses to get meet the deadline to get the discounts. In the meantime, I ended up in the hospital for a week due to heart attack.

When I recovered, I proceeded to the Building Permit office to pay for the permit. At that time I was told "there was a mistake" and the permit was denied again. This time I was told the committee had looked at the attached garage square footage and did not look at the detached building dimensions as well, which is located on the north side of the house. At this time I was told that a 96 sq. ft. variance is needed in order to be approved; or construct the building smaller which will NOT accommodate the need to protect our asset, being our new camper purchased in the fall of 2010.

A 24X40 sq. ft. building is needed to accommodate size as well as the esthetic appearance. I am taking into account the 4x6 studs for wall construction as well as the garage door clearance that is needed. It's not like there isn't enough land to accommodate the building size. Please reconsider the circumstances and approve this building permit with the 96 sq. ft. variance for construction of a 24x40 sq. ft. building.

Sincerely,

Tony Wilson

A handwritten signature in dark ink, appearing to read 'Tony Wilson', is written over a light blue horizontal line. The signature is fluid and cursive, with a large, stylized 'T' and 'W'.